

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MARTHA CUEVA-BUSTAMANTE,	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO.
UNITED STATES OF AMERICA,	§	
UNITED STATES POSTAL SERVICE	§	
and DANNY RODRIGUEZ,	§	
Defendants.	§	

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW MARTHA CUEVA-BUSTAMANTE, hereinafter also referred to as "Plaintiff," and file Plaintiff's Original Complaint, complaining of UNITED STATES OF AMERICA, UNITED STATES POSTAL SERVICE and DANNY RODRIGUEZ, hereinafter also referred to as "Defendants," and in support thereof would respectfully show the Court the following:

I.
PRIOR WRITTEN NOTICE OF CLAIMS TO DEFENDANTS

1. Plaintiff has presented her claims in this lawsuit in writing to Defendants, and Defendant UNITED STATES POSTAL SERVICE has failed to respond to Plaintiff's demand letter within six months after the date on which Defendant UNITED STATES POSTAL SERVICE received that letter. Therefore, in accordance with 26 U.S.C. Section 2401 (b) and 39 C.F.R. 912.9(a), the failure of Defendant UNITED STATES POSTAL SERVICE to respond to that letter is deemed a denial of Plaintiff's claims in this lawsuit, and Plaintiff is filing this lawsuit within six months after that denial.

II.
PARTIES AND SERVICE

2. Plaintiff is an individual who resides in Dallas County, Texas, and can be noticed by and through her attorney of record, Garnett E. “Brit” Hendrix, Jr., Loncar & Associates, 424 S. Cesar Chavez Boulevard, Dallas, Texas 75201.

3. Defendant UNITED STATES OF AMERICA may be served with this lawsuit by delivering a copy of the summons and Plaintiffs’ Original Complaint to John R. Parker, United States Attorney, United States Attorney’s Office, Northern District of Texas, 1100 Commerce Street, Third Floor, Dallas, Texas 75242-1699; or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the Court Clerk. Defendant UNITED STATES OF AMERICA may also be served with this lawsuit by sending a copy of the summons and Plaintiffs’ Original Complaint by certified mail, return receipt requested, to Loretta E. Lynch, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001. Plaintiff requests service by private process server.

4. Defendant UNITED STATES POSTAL SERVICE is an agency of Defendant UNITED STATES OF AMERICA which may be served with this lawsuit by delivering a copy of the summons and Plaintiffs’ Original Complaint to John R. Parker, United States Attorney, United States Attorney’s Office, Northern District of Texas, 1100 Commerce Street, Third Floor, Dallas, Texas 75242-1699; or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the Court Clerk. Defendant UNITED STATES POSTAL SERVICE may also be served with this lawsuit by sending a copy of the summons and Plaintiff’s Original Complaint by certified mail, return receipt requested, to Loretta E. Lynch, Attorney General of the United States, U.S. Department of Justice, 950

Pennsylvania Avenue, NW, Washington, D.C. 20530-0001. Defendant UNITED STATES POSTAL SERVICE may also be served with this lawsuit by sending a copy of the summons and Plaintiff's Original Complaint by certified mail, return receipt requested, to United States Postal Service, Law Department National Tort Center, 1720 Market Street, Room 2400, St. Louis, Missouri 63155-9948. Plaintiff requests service by private process server.

5. Defendant DANNY RODRIGUEZ is an individual resident of Dallas County, Texas, and is a United States officer or employee who is sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf, who may be served with this lawsuit by delivering a copy of the summons and Plaintiff's Original Complaint to John R. Parker, United States Attorney, United States Attorney's Office, Northern District of Texas, 1100 Commerce Street, Third Floor, Dallas, Texas 75242-1699; or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the Court Clerk. Defendant DANNY RODRIGUEZ may also be served with this lawsuit by sending a copy of the summons and Plaintiff's Original Complaint by certified mail, return receipt requested, to Loretta E. Lynch, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001. Defendant DANNY RODRIGUEZ may also be served with this lawsuit by delivering a copy of the summons and Plaintiff's Original Complaint to him personally at his residence address of 5326 Parry Avenue, Dallas, Texas 75223, or by leaving a copy of each at that residence address with someone of suitable age and discretion who resides there. Plaintiff requests service by private process server.

III.
JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this lawsuit and the parties to this lawsuit because this lawsuit arises out of the negligence of Defendant DANNY RODRIGUEZ while he was acting within the course and scope of his employment by Defendants UNITED STATES OF AMERICA and UNITED STATES POSTAL SERVICE, and this lawsuit is therefore brought pursuant to the Federal Tort Claims Act, which vests exclusive jurisdiction for this lawsuit in a United States District Court.

7. Venue of this lawsuit is proper in this Court because the motor vehicle collision in question of October 16, 2015 on which this lawsuit is based occurred in Dallas County, Texas.

IV.
FACTUAL BACKGROUND

8. On or about October 16, 2015, Plaintiff MARTHA CUEVA-BUSAMANTE was driving a 2007 Nissan Altima motor vehicle, traveling eastbound in the 2800 block of Elm Street in Dallas, Dallas, County, Texas, when Defendant DANNY RODRIGUEZ, who was operating a 2003 Dodge Carvan motor vehicle owned by Defendants UNITED STATES OF AMERICA and UNITED STATES POSTAL SERVICE, while he was acting in the course and scope of his employment by Defendants UNITED STATES OF AMERICA and UNITED STATES POSTAL SERVICE, and who was traveling eastbound in the 2800 block of Elm Street changed lanes to the left striking Plaintiff's vehicle. As a direct and proximate result of the wrongful and negligent conduct of Defendants, Plaintiff suffered injuries, damages and medical expenses within the jurisdictional limits of this Court.

V.
NEGLIGENCE

9. The collision in question made the basis of this suit as set forth herein and Plaintiff's resulting injuries and damages were proximately caused by the negligent and wrongful conduct of Defendant DANNY RODRIGUEZ, for which such negligent and wrongful conduct Defendants UNITED STATES OF AMERICA and UNITED STATES POSTAL SERVICE are also responsible and liable, in one or more of the following respects:

- a. in failing to keep a proper lookout as a person of ordinary prudence would have kept in the same or similar circumstances;
- b. in failing to apply the brakes on the vehicle he was operating in a timely manner to avoid the collision in question as a person of ordinary prudence would have done in the same or similar circumstances;
- c. in failing to swerve in a manner to avoid the collision in question as a person of ordinary prudence would have done in the same or similar circumstances;
- d. in driving at a speed greater than that which is reasonable;
- e. in failing to control his speed;
- f. in failing to operate the vehicle he was operating as a reasonably prudent person exercising ordinary care would have operated that vehicle under the same or similar circumstances;
- g. in failing to adhere to state statutes and/or local traffic ordinances; and

VI.
DAMAGES

10. As a direct and proximate result of the negligent and/or wrongful conduct of Defendants, Plaintiff DANNY RODRIGUEZ suffered injuries to her neck, right arm and body generally. Those injuries caused Plaintiff to sustain the following damages:

- a. past and future medical expenses;
- b. past and future loss of earning capacity;
- c. past and future physical pain and mental anguish;
- d. past and future physical impairment;
- e. past and future disfigurement;
- f. property damage and out-of pocket expenses;
- g. pre-judgment interest and post-judgment interest; and
- h. case costs and expenses of suit.

Plaintiff is entitled to recover damages in this lawsuit in an amount within the Court's jurisdictional limits.

VII.
JURY DEMAND

11. Plaintiff hereby requests a trial by jury

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer herein, and that this case be tried before the Court and a Jury, after which Plaintiff should recover:

- a. judgment against Defendants for Plaintiff's damages sought in this lawsuit as set forth above in an amount within the jurisdictional limits of this Court;

- b. pre-judgment interest at the maximum amount allowed by law;
- c. post-judgment interest at the maximum rate allowed by law;
- d. case costs and expenses of suit; and
- e. such other and further relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

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/s/ Garnett E. Hendrix, Jr.
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ATTORNEY FOR PLAINTIFFS